

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB MAY 23, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Brass-Craft Manufacturing Co.

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Serial No. 75/312,367

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Edward A. Zarins for Brass-Craft Manufacturing Co.

Anita N. Odonovich, Trademark Examining Attorney, Law  
Office 104 (Sidney Moskowitz, Managing Attorney).

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Before Cissel, Rodgers and McLeod, Administrative Trademark  
Judges.

Opinion by Cissel, Administrative Trademark Judge:

On June 20, 1997, applicant filed the above-referenced  
application to register the mark "SPEEDI PLUMB PLUS" on the  
Principal Register for what was subsequently identified by  
amendment as a "connector hose for plumbing products  
primarily of non-metal material," in Class 11. The basis  
for the application is applicant's assertion that it

possesses a bona fide intention to use the mark on these goods in commerce.

The Examining Attorney refused registration under Section 2(d) the Lanham Act on the ground that applicant's mark, "SPEEDI PLUMB PLUS," if used on connector hoses for plumbing products, would so resemble the mark "PLUMB PLUS," which is registered<sup>1</sup> for "valves for use in conjunction with plumbing tubing and supply tubes for plumbing," in Class 11, that confusion would be likely. The Examining Attorney also required applicant to disclaim the word "PLUMB" apart from the mark as shown.

Applicant responded by amending the application to include the requested disclaimer, and provided argument against the refusal to register based on likelihood of confusion. Applicant claimed ownership of Registration No. 2,022,166, which was issued on the Principal Register on December 10, 1996. The registered mark there is "SPEEDI PLUMB," and the goods specified in the registration are "plumbing products, namely fluid connectors," in Class 11.

The Examining Attorney accepted applicant's amendments, but in the second Office Action, she made the

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<sup>1</sup> Reg. No. 2,048,611, issued to Vanguard Plastics, Inc, on the Principal Register on April 1, 1997. The registration includes a disclaimer of the word "PLUMB" apart from the mark as shown. Use of the mark in commerce since September 24, 1993 was claimed.

refusal to register final. Applicant timely filed a notice of appeal, and both applicant and the Examining Attorney filed briefs, but applicant did not request an oral hearing before the Board.

The sole issue before the Board in this appeal is whether confusion with the registered mark would be likely if applicant were to use the mark it seeks to register in connection with the goods specified in the application, as amended.

The goods listed in the cited registration and the goods specified in the application appear to be closely related, and applicant does not even argue that they are not, so this appeal boils down to resolving whether applicant's proposed mark "SPEEDI PLUMB PLUS" so resembles the registered mark "PLUMB PLUS" that if they were each used on closely related plumbing products, confusion would be likely.

After careful consideration of the arguments presented by applicant and the Examining Attorney and the limited record before us in this appeal, we hold that the refusal to register is appropriate.

At the outset, we note that in a case such as this, where the goods of the respective parties are closely related, the degree of similarity between the marks

required to support a finding of likelihood confusion is not as great as would be the case if the goods were not so closely related. ECI Division of E Systems, Inc. v. Environmental Communications Inc., 207 USPQ 443 (TTAB 1980).

Applicant argues that its mark is not likely to cause confusion because:

"[t]he predominant portion of the mark is SPEEDI PLUMB, not only when viewing the mark separately[,] but particularly when consumers are exposed to the original product line. The term SPEEDI is the first word of applicant's marks and the word predominantly viewed by the consumer. The connotation is a quick and simple method of making plumbing connections. ...In contrast, the cited mark is simply PLUMB PLUS with the word PLUMB disclaimed. The mark does not have the same connotation as applicant's mark as it generally refers to plumbing products. Consumers would not be confused as to the source of the goods because the predominant features and connotations of the cited mark are different from applicant's family of marks, including the mark sought to be registered." (brief, p.2)

Applicant's arguments are not well taken.

To begin with, although applicant argues that it has a family of marks, merely claiming ownership of its prior registration for the mark "SPEEDI PLUMB" does not establish that applicant has a family of "SPEEDI PLUMB" trademarks. To the contrary, the record in this application demonstrates only that applicant claims ownership of one registration for "SPEEDI PLUMB" and has applied to register

"SPEEDI PLUMB PLUS" based on its assertion that it intends to use it. This record falls far short of providing the Board with a basis upon which to conclude that "SPEEDI PLUMB" is a family characteristic of a group of applicant's trademarks.

The two marks we must compare here are the registered mark, "PLUMB PLUS," and the mark applicant asserts its intention to use, "SPEEDI PLUMB PLUS." Although the descriptive term "PLUMB" has been disclaimed in both the application and the registration, in considering the similarity of these two marks, the Board must consider them in their entirety, including the disclaimed term.

The mark applicant intends to use consists of the registered mark in its entirety, with the addition of the suggestive term "SPEEDI." The mere addition of another term to a registered trademark is usually insufficient to overcome a likelihood of confusion. *Coca-Cola Bottling Co. v. Joseph E. Seagram and Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (CCPA 1975); *Lily Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (CCPA 1967); and *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985). The addition of the suggestive term "SPEEDI" to the registered mark does not result in a mark which is unlikely to cause confusion with the registered mark. As the Examining Attorney points out,

if consumers are familiar with registrant's mark and the goods on which it is used, they are likely to view the addition of the suggestive term "SPEEDI," mistakenly as it would turn out to be, as identifying a new, quick-connect line of registrant's "PLUMB PLUS" products.

This is particularly so in view of the fact that the products will not necessarily be compared on a side-by-side basis. We must consider the recollection of the average purchaser, who normally retains a general, rather than specific, impression of trademarks. When we do this, we find that these marks create similar commercial impressions. See *Chemtron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979).

We further note that any doubt as to whether confusion would be likely must be resolved in favor of the registrant, particularly in a case such as this, where the applicant has not yet used the mark it seeks to register.

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Decision: The refusal to register under Section 2(d)  
of the Lanham Act is affirmed.

R. F. Cissel

G. F. Rogers

L. K. McLeod  
Administrative Trademark Judges  
Trademark Trial & Appeal Board

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